

# House File 2687 - Enrolled

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## AN ACT

RELATING TO CERTAIN ECONOMIC DEVELOPMENT PROGRAMS BY PROVIDING TAX CREDITS FOR THE REDEVELOPMENT OF UNDERUTILIZED PROPERTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 15.291, Code 2007, is amended to read as follows:

15.291 DEFINITIONS.

As used in this part, unless the context otherwise requires:

1. "Brownfield site" means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site ~~shall~~ does not include property which has been placed, or is proposed to be included for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. } 9601 et seq.

2. "Council" means the brownfield redevelopment advisory council established in section 15.294.

3. "Grayfield site" means an industrial or commercial property meeting all of the following requirements:

a. The property has been developed and has infrastructure in place but the property's current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

b. The property's improvements and infrastructure are at least twenty-five years old and one or more of the following conditions exists:

(1) Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of twelve months or more.

(2) The assessed value of the improvements on the property has decreased by twenty-five percent or more.

(3) The property is currently being used as a parking lot.

(4) The improvements on the property no longer exist.

4. "Green development" means development which meets or exceeds the sustainable design standards established by the state building code commissioner pursuant to section 103A.8B.

5. "Qualifying investment" means the purchase price, the cleanup costs, and the redevelopment costs directly related to a qualifying redevelopment project.

6. "Qualifying redevelopment project" means a brownfield or a grayfield site being redeveloped or improved by the property owner. Qualifying redevelopment project does not include a previously remediated or redeveloped brownfield site.

7. "Sponsorship" means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program where the city or county agrees to offer assistance or guidance to the applicant.

Sec. 2. NEW SECTION. 15.293A REDEVELOPMENT TAX CREDITS.

1. a. A redevelopment tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for a portion of a taxpayer's equity investment, as provided in subsection 2, in a qualifying redevelopment project.

b. An individual may claim a tax credit under this subsection of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

3 4 c. Any tax credit in excess of the taxpayer's liability  
3 5 for the tax year is not refundable but may be credited to the  
3 6 tax liability for the following five years or until depleted,  
3 7 whichever is earlier. A tax credit shall not be carried back  
3 8 to a tax year prior to the tax year in which the taxpayer  
3 9 first receives the tax credit.

3 10 1A. a. To claim a redevelopment tax credit under this  
3 11 section, a taxpayer must attach one or more tax credit  
3 12 certificates to the taxpayer's tax return. A tax credit  
3 13 certificate shall not be used or attached to a return filed  
3 14 for a taxable year beginning prior to July 1, 2009. The tax  
3 15 credit certificate or certificates attached to the taxpayer's  
3 16 tax return shall be issued in the taxpayer's name, expire on  
3 17 or after the last day of the taxable year for which the  
3 18 taxpayer is claiming the tax credit, and show a tax credit  
3 19 amount equal to or greater than the tax credit claimed on the  
3 20 taxpayer's tax return.

3 21 b. After verifying the eligibility of a qualifying  
3 22 investor for a tax credit pursuant to this section, the  
3 23 department of economic development shall issue a redevelopment  
3 24 tax credit certificate to be attached to the investor's tax  
3 25 return. The tax credit certificate shall contain the  
3 26 taxpayer's name, address, tax identification number, the  
3 27 amount of the credit, the name of the qualifying investor, any  
3 28 other information required by the department of revenue, and a  
3 29 place for the name and tax identification number of a  
3 30 transferee and the amount of the tax credit being transferred.

3 31 c. The tax credit certificate, unless rescinded by the  
3 32 board, shall be accepted by the department of revenue as  
3 33 payment for taxes imposed pursuant to chapter 422, divisions  
3 34 II, III, and V, and in chapter 432, and for the moneys and  
3 35 credits tax imposed in section 533.329, subject to any  
4 1 conditions or restrictions placed by the board upon the face  
4 2 of the tax credit certificate and subject to the limitations  
4 3 of this section.

4 4 d. Tax credit certificates issued under this section may  
4 5 be transferred to any person or entity. Within ninety days of  
4 6 transfer, the transferee shall submit the transferred tax  
4 7 credit certificate to the department of revenue along with a  
4 8 statement containing the transferee's name, tax identification  
4 9 number, and address, the denomination that each replacement  
4 10 tax credit certificate is to carry, and any other information  
4 11 required by the department of revenue.

4 12 e. Within thirty days of receiving the transferred tax  
4 13 credit certificate and the transferee's statement, the  
4 14 department of revenue shall issue one or more replacement tax  
4 15 credit certificates to the transferee. Each replacement tax  
4 16 credit certificate must contain the information required for  
4 17 the original tax credit certificate and must have the same  
4 18 expiration date that appeared in the transferred tax credit  
4 19 certificate. Tax credit certificate amounts of less than the  
4 20 minimum amount established by rule of the department of  
4 21 economic development shall not be transferable.

4 22 f. A tax credit shall not be claimed by a transferee under  
4 23 this section until a replacement tax credit certificate  
4 24 identifying the transferee as the proper holder has been  
4 25 issued. The transferee may use the amount of the tax credit  
4 26 transferred against the taxes imposed in chapter 422,  
4 27 divisions II, III, and V, and in chapter 432, and against the  
4 28 moneys and credits tax imposed in section 533.329, for any tax  
4 29 year the original transferor could have claimed the tax  
4 30 credit. Any consideration received for the transfer of the  
4 31 tax credit shall not be included as income under chapter 422,  
4 32 divisions II, III, and V, under chapter 432, or against the  
4 33 moneys and credits tax imposed in section 533.329. Any  
4 34 consideration paid for the transfer of the tax credit shall  
4 35 not be deducted from income under chapter 422, divisions II,  
5 1 III, and V, under chapter 432, or against the moneys and  
5 2 credits tax imposed in section 533.329.

5 3 2. The amount of the tax credit shall equal one of the  
5 4 following:

5 5 a. Twelve percent of the taxpayer's qualifying investment  
5 6 in a grayfield site.

5 7 b. Fifteen percent of the taxpayer's qualifying investment  
5 8 in a grayfield site if the qualifying redevelopment project  
5 9 meets the requirements of a green development.

5 10 c. Twenty-four percent of the taxpayer's qualifying  
5 11 investment in a brownfield site.

5 12 d. Thirty percent of the taxpayer's qualifying investment  
5 13 in a brownfield site if the qualifying redevelopment project  
5 14 meets the requirements of a green development.

5 15 3. For purposes of individual and corporate income taxes  
5 16 and the franchise tax, the increase in the basis of the  
5 17 redeveloped property that would otherwise result from the  
5 18 qualified redevelopment costs shall be reduced by the amount  
5 19 of the credit computed under this part.

5 20 4. The maximum amount of a tax credit for a qualifying  
5 21 investment in any one qualifying redevelopment project shall  
5 22 not exceed ten percent of the maximum amount of tax credits  
5 23 available in any one fiscal year pursuant to subsection 5.

5 24 5. For the fiscal year beginning July 1, 2009, the maximum  
5 25 amount of tax credits issued by the department shall not  
5 26 exceed one million dollars. The department shall not issue  
5 27 tax credits pursuant to this section in subsequent fiscal  
5 28 years unless authorized pursuant to this subsection.

5 29 6. An investment shall be deemed to have been made on the  
5 30 date the qualifying redevelopment project is completed. An  
5 31 investment made prior to January 1, 2009, or after June 30,  
5 32 2010, shall not qualify for a tax credit under this part.

5 33 6A. A qualifying redevelopment project that is not  
5 34 completed within thirty months after issuance of an approval  
5 35 for the project by the board shall cease to be eligible for a  
6 1 tax credit pursuant to this section, however, the board in its  
6 2 discretion may provide for an additional twelve-month period  
6 3 in which to complete a project.

6 4 7. The department shall develop a system for registration  
6 5 and authorization of tax credits authorized pursuant to this  
6 6 part and shall control distribution of all tax credits  
6 7 distributed to investors pursuant to this part. In developing  
6 8 the system, the department shall provide for a list of  
6 9 applicants for the tax credit and maintain it from year to  
6 10 year so that if the maximum aggregate amount of tax credits is  
6 11 reached in one year, an applicant can be given priority  
6 12 consideration for the credit in an ensuing year.

6 13 8. The department shall develop rules for the  
6 14 qualification of qualifying redevelopment projects and  
6 15 qualifying investments. The department of revenue shall adopt  
6 16 these criteria as administrative rules and shall adopt any  
6 17 other rules pursuant to chapter 17A necessary for the  
6 18 administration of this part.

6 19 9. The department may cooperate with the department of  
6 20 natural resources and local governments in an effort to  
6 21 disseminate information regarding the availability of tax  
6 22 credits for investments in qualifying redevelopment projects  
6 23 under this part.

6 24 10. If the maximum amount of tax credits available has not  
6 25 been issued at the end of a fiscal year, the remaining tax  
6 26 credit amount may be carried over to a subsequent fiscal year  
6 27 or may be issued in advance to qualifying redevelopment  
6 28 projects for a subsequent fiscal year. Whenever the council  
6 29 approves a tax credit which has not been allocated at the end  
6 30 of a fiscal year, the department may prorate the remaining  
6 31 credit amount to more than one eligible applicant.

6 32 11. If the recipient of a tax credit issued pursuant to  
6 33 this section has also applied to the department, the board, or  
6 34 any other agency of state government for additional financial  
6 35 assistance, the department, the board, or agency of state  
7 1 government shall not consider the receipt of a tax credit  
7 2 issued pursuant to this section when considering the  
7 3 application for additional financial assistance.

7 4 Sec. 3. NEW SECTION. 15.293B APPROVAL == REQUIREMENTS ==  
7 5 REPAYMENT.

7 6 1. An investor seeking to claim a tax credit pursuant to  
7 7 section 15.293A shall apply to the council which shall have  
7 8 the power to approve the amount of tax credit available for  
7 9 each qualifying redevelopment project.

7 10 2. An investor applying for a tax credit shall provide the  
7 11 council with all of the following:

7 12 a. Information showing the total costs of the qualifying  
7 13 redevelopment project, including the costs of land  
7 14 acquisition, cleanup, and redevelopment.

7 15 b. Information about the financing sources of the  
7 16 investment which are directly related to the qualifying  
7 17 redevelopment project for which the taxpayer is seeking  
7 18 approval for a tax credit, as provided in section 15.293A.

7 19 3. If a taxpayer receives a tax credit pursuant to section  
7 20 15.293A, but fails to comply with any of the requirements, the  
7 21 taxpayer loses any right to the tax credit, and the department  
7 22 of revenue shall seek recovery of the value of the credit  
7 23 received.

7 24 Sec. 4. Section 15.294, Code 2007, is amended by adding  
7 25 the following new subsection:

7 26 NEW SUBSECTION. 4. The council shall consider  
7 27 applications for redevelopment tax credits as described in  
7 28 sections 15.293A and 15.293B, and the council may approve the  
7 29 amount of such tax credits for qualifying investments in  
7 30 qualifying redevelopment projects.  
7 31 Sec. 5. Section 103A.3, Code 2007, is amended by adding  
7 32 the following new subsection:  
7 33 NEW SUBSECTION. 23. "Sustainable design" means  
7 34 construction design intended to minimize negative  
7 35 environmental impacts and to promote the health and comfort of  
8 1 building occupants including but not limited to measures to  
8 2 reduce consumption of nonrenewable resources, minimize waste,  
8 3 and create healthy, productive environments.  
8 4 Sec. 6. Section 103A.7, Code 2007, is amended by adding  
8 5 the following new subsection:  
8 6 NEW SUBSECTION. 7. Standards for sustainable design, also  
8 7 known and referred to as green building standards.  
8 8 Sec. 7. NEW SECTION. 103A.8B SUSTAINABLE DESIGN OR GREEN  
8 9 BUILDING STANDARDS.  
8 10 The commissioner, after consulting with and receiving  
8 11 recommendations from the department of natural resources and  
8 12 the office of energy independence, shall adopt rules pursuant  
8 13 to chapter 17A specifying standards and requirements for  
8 14 sustainable design and construction based upon or  
8 15 incorporating nationally recognized ratings, certifications,  
8 16 or classification systems, and procedures relating to  
8 17 documentation of compliance. The standards and requirements  
8 18 shall be incorporated into the state building code established  
8 19 in section 103A.7, but in lieu of general applicability shall  
8 20 apply to construction projects only if such applicability is  
8 21 expressly authorized by statute, or as established by another  
8 22 state agency by rule.  
8 23 Sec. 8. NEW SECTION. 422.11V REDEVELOPMENT TAX CREDIT.  
8 24 The taxes imposed under this division, less the credits  
8 25 allowed under section 422.12, shall be reduced by a  
8 26 redevelopment tax credit allowed under chapter 15, part 9.  
8 27 Sec. 9. Section 422.33, Code Supplement 2007, is amended  
8 28 by adding the following new subsection:  
8 29 NEW SUBSECTION. 25. The taxes imposed under this division  
8 30 shall be reduced by a redevelopment tax credit allowed under  
8 31 chapter 15, part 9.  
8 32 Sec. 10. Section 422.60, Code Supplement 2007, is amended  
8 33 by adding the following new subsection:  
8 34 NEW SUBSECTION. 15. The taxes imposed under this division  
8 35 shall be reduced by a redevelopment tax credit allowed under  
9 1 chapter 15, part 9.  
9 2 Sec. 11. NEW SECTION. 432.12L REDEVELOPMENT TAX CREDIT.  
9 3 The taxes imposed under this chapter shall be reduced by a  
9 4 redevelopment tax credit allowed under chapter 15, part 9.  
9 5 Sec. 12. Section 533.329, subsection 2, Code Supplement  
9 6 2007, is amended by adding the following new paragraph:  
9 7 NEW PARAGRAPH. n. The moneys and credits tax imposed  
9 8 under this section shall be reduced by a redevelopment tax  
9 9 credit allowed under chapter 15, part 9.

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9 13 \_\_\_\_\_  
9 14 PATRICK J. MURPHY  
9 15 Speaker of the House  
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9 17 \_\_\_\_\_  
9 18 JOHN P. KIBBIE  
9 19 President of the Senate  
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9 21 I hereby certify that this bill originated in the House and  
9 22 is known as House File 2687, Eighty-second General Assembly.  
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9 26 \_\_\_\_\_  
9 27 MARK BRANDSGARD  
9 28 Chief Clerk of the House

9 28 Approved \_\_\_\_\_, 2008  
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9 32 CHESTER J. CULVER  
9 33 Governor